

## **REMARKS**

The present Amendment is in response to the Examiner's Final Office Action mailed June 28, 2007, and in response to the Advisory Action mailed November 9, 2007. A "Response After Final" was submitted on September 28, 2007. As indicated in the Advisory Action, the proposed amendments in the Sept. 28 Response were entered by the Examiner, and thus are not re-presented here. By way of the current amendment and response, claims 1 and 16 are amended. Claims 1-23 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

### **I. Objections to the Specification**

A substitute specification was submitted in connection with the September 28, 2007 Response after Final. As noted in that Response, the substitute specification contains no new matter.

### **II. Objections to the Claims**

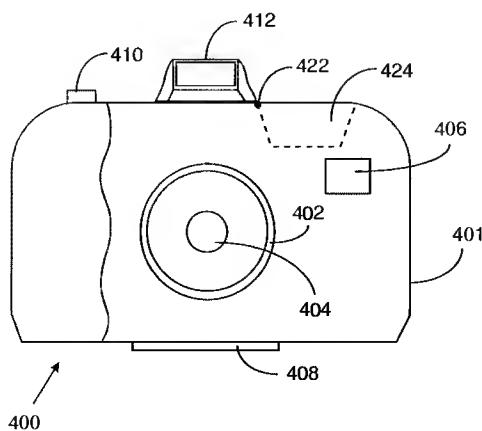
Amendments to claims 1 and 22 were presented in connection with the September 28, 2007 Response after Final. Those amendments were previously entered as acknowledged in the Advisory Action, and are believed to have corrected to the informalities noted by the Examiner.

### III. PRIOR ART REJECTIONS

#### Rejection Under 35 U.S.C. §103

Claims 1-19, 16, 17 and 19-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Bunte et al.* (US 5,821,523), in view of *Correa et al.* (US 6,340,114). Applicants respectfully traverse this rejection on the basis that the applied documents, whether applied individually or in combination, do not teach or suggest all of the elements of the pending claims.

The primary reference relied upon by the Examiner – *Bunte* – is different from the claimed invention in a number of respects. For example, independent claim 1 requires the presence of a “first” and a “second” lens. As admitted by the Examiner, *Bunte*, at best, merely discloses the presence of a single “lens” through which light is passed (identified by the Examiner as constituting diffusing lens 656 in *Bunte*), and which is disposed within a “illumination source and illumination reflector unit” 412. Moreover, claim 1 specifically requires a particular arrangement between the claimed first lens, the claimed second lens and the optical viewfinder. In particular, claim 1 specifically requires that “both the first lens and the second lens set” be capable of “mov[ement] relative to the housing” and that each lens is capable of being “independently aligned with the optical viewfinder. ” The “lens” of *Bunte* has no such capability. In direct contrast to the claimed invention, the “lens” of *Bunte* is positioned completely independent of the optical viewfinder of *Bunte* (which is shown at 406) and certainly is not capable of being “aligned” with the optical viewfinder. This is clearly shown, for example, in Figure 4B of *Bunte*, reproduced below for the Examiner’s reference:



As is clearly shown, the “illumination source and illumination reflector unit” 412 (within which is disposed the “lens” 656 noted by the Examiner) has no physical or operational relationship with respect to the optical viewfinder 406; at a minimum, the lens 656 (disposed within unit 412 **cannot** be moved so as to be “independently aligned” with the optical viewfinder as is claimed.

Thus, *Bunte* fails to teach, or suggest the need for, the presence of two lenses, and does not teach, or suggest the need for, the ability to align a lens (let alone two lenses) with the optical viewfinder.

The Examiner attempts to overcome this deficiency by taking official notice that the *“concepts and advantages of providing a lens in an optical viewfinder that is capable of moving relative to the housing and being aligned with the optical viewfinder are well known and expected in the art.”* (Office Action at page 4). However, even assuming this to be true (which the Examiner has not shown), that is not the relevant inquiry. The question is whether it would have been obvious to modify the device of *Bunte* so as to provide the claimed invention. Moreover, the Examiner must point to some evidence that would demonstrate a reason for making the combination in the first instance. Here, *Bunte* fails to teach the presence (or need) to use *two* lenses that each can be independently moved so as to be ***aligned*** with the optical viewfinder. Moreover, the Examiner alleges that it is known to provide a lens in an optical viewfinder that can be moved. However, the Examiner offers no reason as to why that concept could be used to modify *Bunte* to provide a **single** lens that can be aligned with the optical viewfinder, let alone **two** (or more) lenses as is claimed.

In addition, in the Advisory Action, the Examiner points to the *Shintani* (US Patent 7,012,647) as supporting the Examiner’s Official Notice. However, nowhere does *Shintani* teach or suggest the use of two lenses that can be moved relative to the housing such that each can be independently aligned with the optical viewfinder. Nor is such a feature taught or suggested by *Motta* (US Patent 6,809,772). In any event, to the extent that the Examiner is utilizing either of those references in combination with the teachings of the *Bunte* reference, the Examiner has offered no reason for making the combination, let alone any teaching, suggestion or motivation.

In view of the foregoing, Applicants respectfully request withdrawal of the rejection to claim 1, as well as the rejections to the claims depending from claim 1.

Independent claim 16, as amended, includes limitations similar to those discussed above in connection with claim 1, and therefore claim 16 is also patentably distinguished over *Bunte* and *Correa* for at least the reasons noted above. For example, claim 16 specifically requires that the image capturing device include means for selectively moving the means for focusing the image and the means for forming a laser-framing viewfinder so as to be independently aligned with the means for receiving light. Therefore, Applicants respectfully request withdrawal of the rejection to claim 16, and as well the rejections to the claims depending from claim 16.

With respect to the rejection of claim 7, the Examiner also takes official notice of the fact that it would have been obvious to provide a lens set (as claimed) having a plano-concave lens and a convexo-concave lens. However, neither of the references cited by the Examiner in the Advisory Action teaches such lenses. Applicants continue to maintain the request for documentary evidence to support the Examiner's conclusions in this regard.

It is noted that the claimed subject matter may be patentably distinguished from the applied references for additional reasons; however, the foregoing is believed to be sufficient to overcome the Examiner's rejections discussed above.

Further, it is noted that the Applicants' failure to comment directly upon any of the positions asserted by the Examiner in the Office Action does not indicate agreement or acquiescence with those asserted positions since the Examiner's other positions are believed to be moot in light of the foregoing.

#### **IV. Allowed Subject Matter**

The Examiner's allowance of claims 11-15 is appreciated. Applicants wish to thank the Examiner for the careful review and allowance of those claims.

The Applicant's submit the following comments concerning the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. Applicants agree that the claimed subject matter is patentably distinct from the references cited by the Examiner; however, Applicants take no position regarding the reasons for allowance presented by the Examiner, other than the positions Applicants may have previously taken during prosecution of the above-referenced patent Application. Therefore, the Examiner's reasons for allowance

should not be attributed to Applicants as an indication of the basis for Applicants' belief that the claims are patentably distinct. Furthermore, it is respectfully asserted that there may also be additional reasons for patentability of the claimed subject matter not explicitly stated in this record. Further, Applicants submit that it is the claim as a whole, rather than any particular limitation, that makes each of the claims allowable. No single limitation should be construed as the reason for allowance of a claim because it is each of the elements of the claim that makes it allowable. While in accordance with 37 C.F.R. §1.104(e), a failure by the Applicants to disagree with the Examiner, or file more detailed comments, does not give rise to any implication that the Applicants agree with or acquiesces in the reasoning of the Examiner, here, by this document, Applicants are expressly making clear that no such agreement or acquiescence is present.

### **CONCLUSION**

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 28<sup>th</sup> day of December, 2007.

Respectfully submitted,

**/ERIC L. MASCHOFF/REG. NO. 36,596**

ERIC L. MASCHOFF  
Registration No. 36,596  
Attorney for Applicant  
Customer No. 022913  
Telephone: (801) 533-9800